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OFFICE OF THE  
EXECUTIVE SECRETARY

Docket No. 00-00170

PETITION TO INTERVENE, OBJECT TO THE PROPOSED SETTLEMENT AND TO  
CONSOLIDATE WITH DOCKET 99-00246

Comes the Consumer Advocate Division, on behalf of Tennessee consumers, to Petition to Intervene, Object to the proposed Settlement and to consolidate the Show Cause proceeding with Docket No. 99-00246. For cause the Complainant would show:

1. That the Consumer Advocate Division is authorized to participate or intervene in any proceeding in accordance with Tenn. Code Ann. § 65-4-118 and Tenn. Code Ann. § 65-5-210 (b).
2. That the Tennessee Regulatory Authority staff filed the Petition to Show Cause referenced in the caption above and that counsel for the staff is Gary Hotvedt.
3. That to the best of the Consumer Advocate Division's knowledge the Tennessee Regulatory Authority has not approved the show cause.
4. That BellSouth Telecommunications is an incumbent local exchange company pursuant to Tenn. Code Ann. § 65-4-101(d).
5. That BellSouth's counsel is Guy Hicks, 3301 Commerce Street, Nashville, Tennessee.
6. That the termination provisions of BellSouth's tariffs were not set based upon the

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reasonable expenses to BellSouth, but instead were set to achieve other regulatory goals.

7. That Petitioner or Complainant filed a complaint against BellSouth in Docket No. 99-00246 alleging that BellSouth's special contracts are unlawful, in part because the special contracts are a device to give preferred customers discounts and impose excessive termination costs through the contracts and tariffs.
8. That the TRA staff's request to initiate this show cause proceeding is based upon similar grounds as alleged in the Consumer Advocate Division's Motion to Amend Docket No. 99-00246.
9. That the Tennessee Regulatory Authority staff has requested the Tennessee Regulatory Authority to approve a proposed settlement which may affect Tennessee consumers' rights, privileges, or duties as plead in docket 99-00246 and that the Consumer Advocate Division objects to the proposed settlement on the grounds that it does not resolve the issues stated in the Staff's Petition to Show Cause or the Consumer Advocate Division's complaint as amended.
10. That the staff Petition for Show Cause appears to have begun as a mechanism which sought the adjustment of the termination clauses of tariffs so that only the reasonable expenses of contract termination would be recovered.
11. That BellSouth, in other proceedings interposed as a defense to its special contract device, that the device is predicated upon tariffs approved by the Tennessee Public Service Commission or the Tennessee Regulatory Authority or upon certain tariffs permitted to be placed into effect without a contested case proceeding by the Tennessee Public Service Commission or the Tennessee Regulatory Authority under a different, non-competitive

regulatory framework.

12. That the General Subscribers Services Tariff (GSST) and Private Line Services Tariff (PLST) and their termination provisions are being used as devices to support price discrimination, preferences, and other discriminatory or anti-competitive practices in violation of Tenn. Code Ann. § 65-4-122; Tenn. Code Ann. § 65-4-122; Tenn. Code Ann. § 65-5-208 (c).
13. That the termination provisions of BellSouth's tariffs are or have become regulation, or other State or local legal requirements which may prohibit or have the effect of prohibiting or inhibiting the ability of any entity to provide any interstate or intrastate telecommunications service in violation of 47 U.S.C 253 (a).
14. That the GSST and PLST termination provisions are not impositions on a competitively neutral basis or consistent with section 254 requirements necessary to preserve and advance universal service, protect the public safety and welfare, prohibit discrimination, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.
15. That by permitting BellSouth's GSST and PLST termination provisions the State is permitting or imposing regulations, or legal requirements that violates 47 U.S.C. 253 (a) or (b) and that said tariffs and termination provisions are preempted or should be preempted and unenforceable to the extent necessary to correct such violation or inconsistency with 47 U.S.C. 253 (a) or (b).
16. That enforcement of BellSouth's GSST and PLST termination provisions delay

entrants movement into the local telephone service market, putting them and Tennessee consumers under significant competitive disadvantages, with incumbent local exchange carrier (LEC) and other local providers, and that enjoining, removing, modifying the termination provisions of BellSouth's tariffs would serve the goals of the 1995 Tennessee Public Acts, chapter 408, the 1996 Telecommunications Act of 1996, 47 U.S.C. 253, et seq. And the public interest.

17. That BellSouth's GSST and PLST termination provisions are unjust and unreasonable and do not enhance or promote competition.
18. That through its GSST and PLST termination provisions BellSouth has adopted, maintains, or enforces regulations, practices, or measurements which are unjust, unreasonable, unduly preferential or discriminatory.
19. That BellSouth's GSST and PLST termination provisions are improper, or inadequate, or BellSouth uses said provisions to unlawfully withhold or refuse to grant consumers service at the same per unit prices through the discriminatory device of special contracts.
20. That contracts, special or not, are mere devices and should not be used to determine whether or not a customer is similarly situated.
21. That BellSouth and all telecommunications utilities transport messages and it is the transportation of those messages that is deemed in the public interest.
22. That BellSouth and all telecommunications utilities transport messages and it is

the transportation of those messages that is deemed in the public interest and it is the differences or character of the transportation of those messages that determine whether or not a customer is similarly situated.

23. That Tennessee consumers did not negotiate the terms and provisions of said GSST and PLST tariffs with BellSouth and should no longer be bound by the termination provisions of those tariffs to the extent that BellSouth does not incur new costs or additional costs to provide the services to a particular consumer and further that the provisions of said tariffs constitute unlawful and unreasonable penalties and do not serve the public interest.
24. That BellSouth's GSST and PLST termination provisions are vague, excessive and extortionate in contravention of Tenn. Code Ann. § 65-4-122 (b).
25. That BellSouth's GSST and PLST termination provisions are not supported by expense studies which show that the termination provisions are just and reasonable.
26. That BellSouth's GSST and PLST termination provisions are not the type of termination provisions a customer, with reasonable knowledge of the market and with reasonable knowledge of the likely expenses a telecommunications company would incur in the event a contract is terminated, would make at arms length and without duress.
27. That the changes in GSST and PLST termination provisions proposed by the staff

and BellSouth in their proposed settlement are not the type of termination provisions a customer, with reasonable knowledge of the market and with reasonable knowledge of the likely expenses a telecommunications company would incur in the event a contract is terminated, would make at arms length and without duress.

28. That the changes in GSST and PLST termination provisions proposed by the staff and BellSouth in their proposed settlement impose termination costs which are unreasonably greater than the expense actually incurred by BellSouth for serving the customer.
29. That the proposed settlement unreasonably seeks to extend these unreasonable termination provisions to all telecommunications service providers.
30. That the Consumer Advocate Division contends that the following tariff sections are incorporated herein by reference and are unlawful as alleged in this Motion to

Amend:

#### GENERAL SUBSCRIBERS SERVICES TARIFF:

A12.20.8.C - MultiServ - Cancellation Charges  
A12.21.8.B - MultiServ Plus - Cancellation Charges  
A19.5.21.B.4 - Toll Free Dialing Service  
A20.3.8.E.3 - WatsSaver  
A27.1.2.E - Shared Tenant Service  
A29.1.2.C.5.b - Derived Data Channel Service (DDCS)  
A29.7.4.H - Administrative Management Service (AMS)  
A32.1.1.D.3 - Integration Plus Management Service (IPMS)  
(Includes IPMS, FlexServ & Network Usage Info. Service)  
A34.5.6.A.4 - CrisisLink - Charges  
A38.1.3.C - DADS Termination

A40.10.2.B - Fast Packet Transport Services  
(Includes Frame Relay, NMLI, CDS, BBEL, ATM)  
A40.11.2.D - Video Conferencing Service  
A42.3.2.A - Primary Rate ISDN  
A110.1.5 - Centrex Service  
A112.26.6.G - ESSX Service - Vintage II  
A112.28.6.G - Digital ESSX Service - Vintage II  
A112.32.6.H - ESSX Service - Vintage I  
A112.34.6.G - Digital ESSX Service - Vintage I  
A113.39.4.E - Central Office Local Area Network Service  
A125.1.2.G - LightGate  
A131.2.2.A.8 - Area Communications Service (ACS)  
A134.3.7.A.8 - ZipCONNECT

PRIVATE LINE SERVICES TARIFF:

B3.3.1.A.1 - Commercial Quality Video (CQV)  
B7.1.2.C.5 - MegaLink  
B7.2.2.H.1.c - SynchroNet  
B7.3.2.G - MegaLink Channel Service  
B7.4.2.G - LightGate  
B7.5.4.E - MegaLink ISDN  
B7.7.2.H.3 - SMARTRing  
B7.8.3.E - SMARTPath  
B8.2.2.A.2 - Customer Network Service Arrangement I  
B8.3.2.C - Customer Network Service Arrangement II

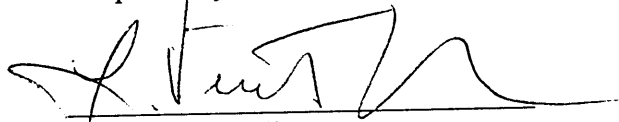
31. That the proposed settlement does not resolve the issue of unjust and unreasonable penalties, unjust and unreasonable discrimination, and anti-competitiveness and that the Tennessee Regulatory Authority is required by Tenn. Code Ann. § 65-4-122 to prevent discrimination by the device of special contract.
32. That the proposed settlement does not prevent extortion as defined by Tenn. Code Ann. § 65-4-122 (b).
33. That the proposed settlement is not supported by underlying facts and the tariffs and contracts will continue to be used as devices which impose penalties or

unlawful extortion.

34. That the Tennessee Regulatory Authority is required by Tenn. Code Ann. § 65-5-208 (c) to prohibit anti-competitive conduct by an incumbent local exchange company and the proposed settlement does not prohibit anti-competitive conduct by the incumbent local exchange company.

Wherefore the Consumer Advocate Division prays that the Tennessee Regulatory Authority grant the Consumer Advocate Division's Petition to Intervene and consolidate this proceeding with 99-00246, deny the proposed settlement and grant other relief as is just.

Respectfully Submitted,




L. Vincent Williams  
Deputy Attorney General  
Consumer Advocate Division  
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B.P.R. No. 011189

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Document has been mailed postage prepaid to the parties listed below this 13<sup>th</sup> day of June, 2000.

Guy Hicks, Esq.  
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